

AO 243 (Rev. 5/85)

UNITED STATES COURTS
SOUTHERN DISTRICT OF TEXASMOTION UNDER 28 U.S.C. § 2255 TO VACATE, SET ASIDE, OR CORRECT SENTENCE
BY A PERSON IN FEDERAL CUSTODY

DEC 23 2005

United States District Court Southern

District of MICHAEL A. JURY, CLERK OF COURT

Name of Movant Aminata Smith

Prisoner No. 29412-179 Case No. 4:04

CR00196-002

H-05-4340

UNITED STATES OF AMERICA

V.

Aminata Smith

(name under which convicted)

MOTION

1. Name and location of court which entered the judgement of conviction under attack Southern District of Texas
2. Date of judgement of conviction June 9, 2005
3. Length of sentence 51 months
4. Name of offense involved (all counts) Violation of 8 USC § 1324(a)(1)(A)(iv) (a)(1)(A)(v)(I), (a)(1)(B)(i) and 1325(c)
5. What was your plea? (Check one)

(a)	Not guilty	<input type="checkbox"/>
(b)	Guilty	<input checked="" type="checkbox"/>
(c)	Nolo contendere	<input type="checkbox"/>

If you entered a guilty plea to one count or indictment, and a not guilty plea to another count or indictment, give detail:
Govt dropped 5 counts of the same and I pled out to 1 count
6. If you pleaded not guilty, what kind of trial did you have? (Check one)

(a)	Jury	<input type="checkbox"/>
(b)	Judge only	<input type="checkbox"/>
7. Did you testify at the trial?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>
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8. Did you appeal from the judgment of conviction?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>
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9. If you did appeal, answer the following:

- (a) Name of court _____
- (b) Result _____
- (c) Date of result _____

10. Other than a direct appeal from the judgement of conviction and sentence, have you previously filed any petitions, applications or motions with respect to this judgement in any federal court?

Yes ☐ No ☒

11. If your answer to 10 was "yes", give the following information:

- (a) (1) Name of Court _____
- (2) Nature of proceeding _____
- (3) Grounds raised _____
- (4) Did you receive an evidentiary hearing on your petition, application or motion?
- Yes ☐ No ☐
- (5) Result _____
- (6) Date of result _____
- (b) As to any second petition, application or motion, give the same information:
- (1) Name of Court _____
- (2) Nature of proceeding _____
- (3) Grounds raised _____
- (4) Did you receive an evidentiary hearing on your petition, application or motion?
- Yes ☐ No ☐
- (5) Result _____
- (6) Date of result _____

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(c) Did you appeal to an appellate federal court having jurisdiction, the result of action taken on any petition, application or motion?

(1) First petition, etc. Yes ☐ No ☐

(2) Second petition, etc. Yes ☒ No ☐

(d) If you did not appeal from the adverse action on any petition, application, or motion, explain briefly why you did not:

State concisely every ground on which you claim that you are being held in violation of the constitutional rights or treaties of the United States. Summarize briefly the facts supporting each ground. If necessary, you may attach pages (number additional grounds and facts supporting same).

CAUTION: If you fail to set forth all grounds in this motion, you may be barred from presenting additional grounds at a later date. For your information, the following is a list of the most frequently raised grounds for relief in these proceedings. Each statement preceded by a letter constitutes a separate ground for possible relief. You may raise any grounds which you have other than those listed. However, you should raise in this motion all available grounds (relating to this conviction) on which you based your allegations that you are being held in custody unlawfully.

Do not check any of these listed grounds. If you select one or more of these grounds for relief, you must allege facts. The motion will be returned to you if you merely check (a) through (j) or any one of the grounds.

(a) Conviction obtained by a plea of guilty which was unavoidably entered or not made voluntarily or with understanding of the nature of the charge and the consequences of the plea.

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- (b) Conviction obtained by use of coerced confession.
- (c) Conviction obtained by use of evidence gained pursuant to an unconstitutional search and seizure.
- (d) Conviction obtained by use of evidence obtained pursuant to an unlawful arrest.
- (e) Conviction obtained by a violation of the privilege against self-incrimination.
- (f) Conviction obtained by the unconstitutional failure of the prosecution to disclose to the defendant evidence favorable to the defendant.
- (g) Conviction obtained by a violation of the protection against double jeopardy.
- (h) Conviction obtained by action of a grand or petit jury which was unconstitutionally selected and impaneled.
- (i) Denial of effective assistance of counsel.
- (j) Denial of right of appeal.

A. Ground one: Counsel was ineffective as his promises were nullified by sentencing

Supporting FACT (state briefly without citing cases or law) _____

I was told I would receive a "Time Served" sentence
As my criminal history was 1 and I was probation eligible
and that promise was broken at sentencing

B. Ground two: _____

Supporting FACT (state briefly without citing cases or law) _____

C. Ground three: _____

Supporting FACT (state briefly without citing cases or law) _____

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D. Ground four: _____

Supporting FACT (state briefly without citing cases or law) _____

13. If ANY of the grounds listed in 12A, B, C, and D were not previously presented, state briefly what grounds were not so presented, and give your reasons for not presenting them: _____

14. Do you have any petition or appeal now pending in any court as to the judgement under attack:

Yes ☐ No ☒

15. Give the names and addresses, if known, of each attorney who represented you in the following stages of the judgement attacked herein.

(a) At preliminary hearing: Rick Young

(b) At arraignment and plea: Same

(c) At trial: _____

(d) At sentencing: S/A

(e) On appeal: _____

(f) In any post-conviction proceeding: _____

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(g) On appeal from any adverse ruling in a post-conviction proceeding: _____

16. Were you sentenced on more than one count of an indictment, or on more than one indictment, in the same court and at approximately the same time?

Yes ☐ No ☒

17. Do you have any future sentence to serve after you complete the sentence imposed by the judgement under attack?

Yes ☐ No ☒

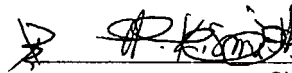
(a) If so, give name and location of court which imposed sentence to be served in the future: _____

(b) Give date and length of the above sentence: _____

(c) Have you filed, or do you contemplate filing, any petition attacking the judgement which imposed the sentence to be served in the future?

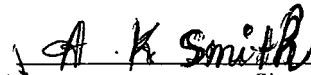
Yes ☐ No ☒

Wherefore, movant prays that the Court grant him/her all relief to which he/she may be entitled in this proceeding.



Signature of Attorney (if any)

I declare under penalty of perjury that the foregoing is true and correct. Executed on:

X-11-5-2005
Date

Signature of Movant

From: Smith AMINATA

Register no: 29416-179

F.C.I. Federal Correctional Institution

Danbury Route 37 Connecticut 06816

STAMFORD CT 06901

DLC 21 2005

H-05-4340

To: Southern District of Texas

U.S. Court House

P.O. Box 61010

Houston TX 77208-1010

UNITED STATES COURTS
SOUTHERN DISTRICT OF TEXAS
FILED

DEC 23 2005

MICHAEL N. MULRY, CLERK OF COURT

NEW 2255